

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO.2347 OF 2015
IN
WRIT PETITION NO.3383 OF 2010

Smt. Rani K. Jain .. Applicant
V/s
Mr. Vishambar Khemchand Mehrotra & Another .. Respondents

Mr. Mayur Khandeparkar a/w Khan Javed Akhtar for Applicant.
Ms. Bina H. Jariwala i/b Auroma Law for Respondents.

CORAM : M.S. SONAK, J.
DATED : OCTOBER 6, 2015

P.C. :

. Although the reasons set out in the Civil Application are not convincing, if the Petition is not restored, then, possibly a disproportionate burden would be inflicted upon the Petitioner/Applicant, who is said to be widow with indifferent health. Ultimately, the Petitioner/Applicant has, in the present case, engaged Advocate to appear for and on her behalf. The delay for payment of costs has to be viewed from such perspective.

2 No doubt, prejudice is bound to occasion the Respondent on account as the pendency of the present petition as due to the interim relief granted therein, the Respondents have not been able to execute a decree of eviction obtained by them in their favour. This circumstance is, however, compensable in terms of further costs which can be awarded to the Respondents.

3 Therefore, the order dismissing the Petition for default/non-compliance with the condition with regards to payment of costs, is recalled. The delay, if any, in taking out the Civil Application is condoned. The Petition is restored. The interim relief granted therein is also restored. All this is subject to payment of costs of Rs.20,000/- within a period of four weeks from today. Such costs be directly paid to the Respondent No.1-Landlord, who shall accept the same.

4 Further, if the costs are not paid or deposited within a period of four weeks from today, the Petition shall stand dismissed without any further reference to this Court. If, however, the costs are paid within a period of four weeks, place this Petition for final hearing on 19 November 2015 at 03.00 p.m. (High on Board), in

view of the directions of Hon'ble Supreme Court.

5 The Applicant/Petitioner shall be entitled to credit for Rs.5,000/- which is already deposited and the Applicant/Petitioner to deposit further amount of Rs.15,000/- within four weeks from today. Respondent No.1 shall be at liberty to withdraw such amount of costs unconditionally.

(M.S. SONAK, J.)

C E R T I F I C A T E

Certified to be true and correct copy of the original signed order.